

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

VISTA LUMEN, LLC

Plaintiff,

v.

METALUMEN MANUFACTURING
INC.

Defendant.

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Case No. 4:17-cv-00463
JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Vista Lumen, LLC (“Vista Lumen”), files this Complaint for Patent Infringement against Defendant Metalumen Manufacturing Inc. (“Metalumen” or “Defendant”), and alleges as follows:

PARTIES

1. Vista Lumen is a corporation organized and existing pursuant to the laws of Texas. Vista Lumen’s principal place of business is 100 Turnberry Circle, McKinney, Texas 75070.

2. Upon information and belief, Defendant Metalumen is a Canadian corporation with its principal place of business at 570 Southgate Drive, Guelph, Ontario, Canada. Metalumen may be served by a private process server in Canada.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the United States Patent Act, 35 U.S.C. § 1, et seq. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338.

4. On information and belief, Defendant makes, imports, sells, and/or offers for sale products within the United States, including this District, that infringe one or more claims of United States Patent No. 7,942,542 entitled “Back Lighted Replaceable Image Sheet Display Apparatus” (the “’542 Patent”). These products (“Accused Products”) include at least the Scene Photo Graphics products.

5. The United States Patent and Trademark Office duly and legally issued the ’542 Patent on May 17, 2011. A true and correct copy of the ’542 Patent is attached as Exhibit A.

6. On information and belief, Defendant designs, manufactures, and sells LED light boxes for use in signage, advertising, and visual merchandising. On information and belief, Defendant sells its products in the United States, including within this District. Defendant’s customers, including customers within this district, can purchase Defendant’s products from sales managers in the United States and online at its interactive website <http://www.metalumen.com/>.

7. This Court has general personal jurisdiction over Defendant because it has maintained systematic and continuous business contacts with the State of Texas. Additionally, this Court has specific personal jurisdiction over Defendant because it has committed acts of patent infringement in the State of Texas by offering for sale and selling products, including but not limited to the Accused Products, that infringe one or more claims of a United States Patent owned by Vista Lumen.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(d).

BACKGROUND

9. The Accused Products are contemporary illuminated light boxes used for decorative purposes, in marketing campaigns, or for in-store visual merchandising. The Accused Products are specially constructed to create the same brightness over different sizes and provide a slim silhouette in a large format.

GENERAL ALLEGATIONS

10. On information and belief, Defendant offers for sale and sell in Texas and throughout the world one or more devices, including but not limited to the Accused Products, that infringe one or more claims of the '542 Patent.

11. Defendant has been on actual notice of the '542 Patent at least since it received this complaint.

FIRST CLAIM FOR RELIEF (INFRINGEMENT OF THE '542 PATENT)

12. Vista Lumen incorporates the above as though fully set forth herein.

13. Vista Lumen is the owner by assignment of all rights, title, and interest in the '542 Patent.

14. The '542 Patent is valid and enforceable.

15. On information and belief, Defendant has been and now is directly infringing one or more claims of the '542 Patent by making, importing, using, offering for sale, and/or selling the patented inventions in the United States.

16. More particularly, without limitation, Defendant is now directly infringing one or more claims of the '542 Patent by making, importing, using (including use for

marketing and testing purposes), offering for sale, and/or selling the Accused Products, all in violation of 35 U.S.C. § 271(a).

17. Vista Lumen has been damaged by the infringing activities of Defendant, and will be irreparably harmed unless those infringing activities are preliminarily and permanently enjoined by this Court. Vista Lumen does not have an adequate remedy at law.

18. More information about Defendant's Scene products can be found in the file SCENE_SCE_SCEM_LED_PG_SPEC_SHEET.pdf and attached hereto as Exhibit B, which can be downloaded from this url:

<http://www.metalumen.com/Products/~Product/3801155/Scene%20Photo%20Graphics-Pendant%20/%20Suspended-SCE%20PG%20P>.

19. Defendant's representative Scene products infringe at least representative Claim 1 of the '542 Patent. Specifically, the representative Scene products are a back-lit structure.

20. More particularly, the Scene products comprise a reflective surface because the Scene products have a "high performance optical reflector." SCENE_SCE_SCEM_LED_PG_SPEC_SHEET.pdf, p. 2.

21. The representative Scene products also comprise a light guide plate which receives light at an edge and guides it laterally through said light guide plate because the "light emitted from the MetaLED mid-flux LEDs is channeled inside Metalumen's AccuRay® optical plane." SCENE_SCE_SCEM_LED_PG_SPEC_SHEET.pdf, p. 2.

22. The representative Scene products further comprise a light guide plate having a multiplicity of light directing surface irregularities causing light to be directed

transversely to said light guide plate, said surface irregularities being dimensioned and spaced apart in a manner to minimize non-uniformity in light intensity from different areas of said light guide plate because the Scene products have “a precisely controlled micro dot matrix pattern directs, shapes and distributes the light throughout the material.”

SCENE_SCE_SCEM_LED_PG_SPEC_SHEET.pdf, p. 2.

23. The representative Scene products also comprise a plurality of light emitting diodes arranged to transmit light into at least one edge of said light guide plate because the “light emitted from the MetaLED mid-flux LEDs is channeled inside Metalumen’s AccuRay® optical plane.”

SCENE_SCE_SCEM_LED_PG_SPEC_SHEET.pdf, p. 2.

24. The representative Scene products have a transparent flat window on the front of said structure, the back of said window providing a fixed location for an image sheet, the window being placed at a space from said surface irregularities greater than the maximal distance between adjacent ones of said surface irregularities, paths through said space being transparent as indicated by the following description:

The light emitted from the MetaLED mid-flux LEDs is channeled inside Metalumen’s AccuRay® optical plane where a precisely controlled micro dot matrix pattern directs, shapes and distributes the light throughout the material. A high performance optical reflector and diffuser further guide and extract the light with superb efficiency and beam control. Custom graphics must be provided by customer in PDF format.

SCENE_SCE_SCEM_LED_PG_SPEC_SHEET.pdf, p. 2. The customer supplied graphic evidently place such that the light is distributed through the graphic evenly.

25. The representative Scene products have a frame element holding the components of said structure in place as can be seen in the following example graphic:



SCENE_SCE_SCEM_LED_PG_SPEC_SHEET.pdf, p. 1.

26. The representative Scene products have removable fasteners for said window facilitating separation thereof to access said image sheet because the Optics are noted as being compatible with a “Custom Graphic” provided in a “high-res PDF file.” SCENE_SCE_SCEM_LED_PG_SPEC_SHEET.pdf, p. 2. To make use of the custom graphic, the representative Scene products need to have fasteners for holding the printed image sheet in place.

27. Defendant has had actual notice of the existence of the `542 Patent since at least the time it received this complaint. Despite such notice, Defendant continues in acts of infringement without regard to the `542 Patent, and will likely continue to do so unless otherwise enjoined by this Court.

28. Vista Lumen is entitled to recover from Defendant the damages sustained by Vista Lumen as a result of Defendant’s wrongful acts in an amount to be proven at trial.

REQUEST FOR RELIEF

WHEREFORE, Vista Lumen requests the following relief:

- (a) A judgment in favor of Vista Lumen that Defendant has directly infringed one or more claims of the `542 Patent;

- (b) A judgment that Vista Lumen has been irreparably harmed by the infringing activities of Defendant and is likely to continue to be irreparably harmed by Defendant's continued infringement;
- (c) Preliminary and permanent injunctions prohibiting Defendant and its officers, agents, servants, employees and those persons in active concert or participation with any of them, as well as all successors or assignees of the interests or assets related to the Accused Products, from further infringement, direct and indirect, of the '542 Patent;
- (d) A judgment and order requiring Defendant to pay Vista Lumen damages adequate to compensate for infringement under 35 U.S.C. § 284, which damages may include lost profits but in no event shall be less than a reasonable royalty for the use made of the inventions of the Asserted Patent, including pre- and post-judgment interest and costs, including expenses and disbursements; and
- (e) Any and all such further necessary or proper relief as this Court may deem just.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Vista Lumen hereby demands a trial by jury of all issues so triable.

Dated: June 29, 2017

Respectfully submitted,

/s/ Gary R. Sorden

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